

1170 RIGHT OF WAY: BLIND PEDESTRIAN ON HIGHWAY

The Wisconsin statutes define “right of way” as the privilege of the immediate use of the roadway.¹

The statutes further provide that a operator of a vehicle must stop the vehicle before approaching closer than 10 feet to a pedestrian carrying a cane or walking stick which is white in color or white trimmed with red and which is held in an extended or raised position and shall take such precautions as may be necessary to avoid accident or injury to the pedestrian. The fact that the pedestrian may be violating any of the laws applicable to pedestrians does not relieve the operator of a vehicle from the duties imposed by the rule just stated.²

If you find that (pedestrian) was carrying a cane or walking stick identified by the specified colors and extended or raised in position, then it became the duty of (operator) to stop the vehicle before approaching closer than 10 feet to (him) (her) and to take such precautions as might be necessary to avoid accident or injury to the pedestrian.

NOTES

1. Wis. Stat. § 340.01(51).
2. Wis. Stat. § 346.26(1).

COMMENT

This instruction and comment were approved in 1978. The instruction was revised in 1992 and 2008. Editorial changes were made in 1992 to address gender references in the instruction. This revision was

approved by the Committee in September 2021.

Driver or Operator. This instruction applies to either an operator or a driver of a motor vehicle. If “driver” is more appropriate to the evidence, then substitute “driver” for “operator.”

A blind person unidentified by cane or walking stick enjoys the rights of other pedestrians in crossing highways. Wis. Stat. § 346.26(2).

Rights and duties of bicyclists. Different right-of-way standards apply depending on whether a bicyclist was using the roadway as any other vehicle or as a pedestrian upon a sidewalk or within a crosswalk. See Chernetski v. American Family Mutual Insurance Co., 183 Wis.2d 68, 515 N.W.2d 283 (1994) and Estate of Zhu v. Hodgson, 2021 WI App 10, 395 Wis.2d 768, 954 N.W.2d 748.